

### **REMARKS**

Applicants have received and carefully reviewed the Office Action of September 25, 2008, in which claims 1-20 are pending and stand rejected. Favorable consideration of the following remarks is respectfully requested.

#### **Claim Rejections Under 35 U.S.C. §103(a)**

Claims 1-20 were rejected under 35 U.S.C. §103(a) as being unpatentable over Peters et al., U.S. Patent No. 5,549,552 (hereinafter "Peters"), in view of Mügge et al., U.S. Patent No. 5,478,620 (hereinafter "Mügge"). Applicants respectfully traverse the rejection.

Peters is directed toward a balloon dilation catheter where there may be a tie layer between the balloon and the catheter shaft that is either an adhesive or a polymer, and which has improved "trackability." Mügge is directed toward the manufacture of a multilayer plastic pipe and teaches that the objects of the present invention are "to provide polyamide pipe with good dimensional stability" and "to provide polyamide pipe with good mechanical load bearing capacity." See column 1 lines 43-46.

These are contrary objectives. One cannot create a pipe (a term which denotes a rigid structure) that has good trackability, a property which relies on flexibility for its efficacy. One of skill in the catheter art would, therefore, not look to a reference that teaches a manufacturing method for a rigid article when looking for alternative tie layers.

For at least this reason, Applicants submit that claim 1, which recites "a tie layer disposed between the proximal waist length or distal waist length in the first tubular member, wherein the tie layer comprises a polyester polymer and a polyamide polymer," is not obvious over the cited art. As independent claims 10 and 15 contain similar limitations, Applicants submit that these claims are allowable for at least this reason as well. Claims 2-9, 11-14 and 16-20, which depend from one of claims 1, 10 and 15, and which contain additional limitations, are similarly in condition for allowance.

Further, claim 7 recites "wherein the tie layer comprises a polyester layer disposed on a polyamide layer, wherein the polyamide layer is disposed between the polyester layer and the first tubular member." Mügge does not suggest such a tie layer. Mügge teaches that "the two polyamide layers are connected together so force-lockingly by means of the intermediate layer

that the different layers do not shear", and, significantly, teaches pipes made from an odd number of layers: "In addition to a three-layer pipe, pipes can also be manufactured that are made, e.g., of 5 or 7 layers by incorporating other layers made of polyamide or of polyamide/polyester." See column 3, lines 51-57. The polyamide layers are not the tie layers; they are the layers to be tied. Mgge does not teach a polyamide layer as a tie layer. Mgge teaches only a polyamide layer as the exterior-most or interior-most layer, or as a layer sandwiched by the polyamide/polyester layers.

The configuration of claim 7, where the tie layer has a polyester layer disposed on a polyamide layer, is not taught by Mgge. While some polyamide layers of Mgge include polyester, no polyester layers are disposed on another polyester layer, nor are any of the non-polyester polyamide layers tie layers. In particular, Mgge does not teach a non-polyester polyamide layer and as suitable for connecting to the interior polyamide layer (which is the equivalent in Mgge of the first tubular member of claim 7). Therefore, even if one were to modify Peters in view of Mgge, one would not arrive at the invention of claim 7. For this additional reason, Applicants submit that claim 7 is in condition for allowance.

An additional reason for allowance is available with respect to claim 8, which depends from claim 7, which recites "wherein the polyamide layer comprises a copolymer of polyester and polyamide." In claim 7, the polyester layer is disposed on the polyamide layer. However, in Mgge the pipe consists of alternating layers of a polyester/polyamide and a polyamide. Nowhere, so far as Applicants can tell, does Mgge teach disposing a polyester or a polyester blended layer on another polyester or polyester blended layer. It is therefore apparent that neither reference teaches all of the elements of claim 8. For this additional reason, Applicants submit that claim 8 is in condition for allowance.

Claims 12 and 13 and claims 17 and 18 contain limitations similar to those of claims 7 and 8, respectively. Therefore, Applicants submit that these claims are allowable for the additional reasons discussed above with respect to claims 7 and 8.

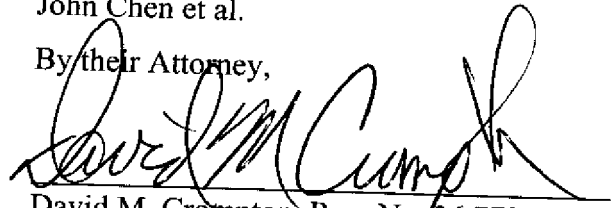
**Conclusion**

Reexamination and reconsideration are respectfully requested. It is respectfully submitted that all pending claims are now in condition for allowance. Issuance of a Notice of Allowance in due course is requested. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

Respectfully submitted,

John Chen et al.

By their Attorney,

A handwritten signature in black ink, appearing to read "David M. Crompton", written over a horizontal line.

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